

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2000-872

October 31, 2000

NEWENERGY EAST, LLC  
Request for Waiver for Approval of  
Procedure to Satisfy Portfolio Requirements

ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

---

**I. SUMMARY**

Through this Order, we authorize NewEnergy East, L.L.C. (NewEnergy) to satisfy the portfolio requirement by scheduling an amount of kWhs from eligible resources into the NEPOOL market equal to 30% of its kWh sales in Maine.

**II. BACKGROUND**

On September 29, 2000, NewEnergy submitted a request that the Commission approve its proposed procedure for complying with the State's portfolio requirement. NewEnergy stated that it entered into an energy service agreement (Agreement) with Holtra Chemical Company (Holtra) to provide electricity requirements from March, 2000 through March, 2001. On relatively short notice, Holtra ceased operating its facility on September 15, 2000. NewEnergy explained that it had already purchased generation from eligible resources to be delivered to Holtra from October, 2000 through December, 2000. NewEnergy planned to deliver the energy from the eligible resources during the fourth quarter to better calibrate the amount of eligible generation necessary to meet the 30% requirement. Because Holtra closed its facility in September, NewEnergy was unable to provide any eligible resource generation to Holtra.

NewEnergy proposes to schedule an amount of eligible resource generation into the NEPOOL market equal to 30% of its total MWh deliveries to Holtra. NewEnergy states that this scheduling will promote the consumption of electricity from eligible resources that would not otherwise be purchased.

The Public Advocate indicated no opposition to NewEnergy's proposed procedure.

**III. DISCUSSION**

The circumstances presented by NewEnergy were not specifically contemplated when implementing our rules governing the portfolio requirement (Chapter 311). Due to the unexpected shutdown of its customer, NewEnergy is unable to serve 30% of its Maine load from eligible resources. However, NewEnergy acted reasonably to comply with the portfolio requirement by securing power to meet the 30% requirement during

the fourth quarter in anticipation of continuing to serve Holtra through the term of their Agreement.

In the event a competitive provider does not serve 30% of its Maine load through eligible resources, section 6(B)(3) of Chapter 311 authorizes the Commission to impose alternatives, taking into account the applicable facts and circumstances. NewEnergy's proposal to schedule generation from eligible resources into the NEPOOL market equal to 30% of its MWh deliveries to Holtra will have virtually the same impact on eligible resource generation as if NewEnergy sold the same amount of eligible resources directly to Holtra. Thus, under the circumstances presented, we conclude that NewEnergy's proposal to schedule 34,000 MWhs of eligible resource generation into the NEPOOL market in lieu of direct sales to Maine customers is an appropriate resolution. Thus, we authorize this procedure pursuant to Chapter 311.

Dated at Augusta, Maine, this 31st day of October, 2000.

BY ORDER OF THE COMMISSION

---

Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Nugent  
   Diamond

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.